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Permanent Forum on Indigenous Issues
Ninth session
New York, 19-30 April 2010
Half-day discussion on North America

Draft report

Rapporteur: Ms. Paimaneh **Hasteh**

Chapter I
Matters calling for action by the Economic and Social Council or brought to its attention

B. Matters brought to the attention of the Economic and Social Council

1. Indigenous peoples of North America (Turtle Island) are found within all states of the United States of America and within all provinces and territories of Canada. Despite the fact that indigenous peoples live in developed and democratic first-world countries, the violation of their human rights affirmed in the United Nations Declaration on the Rights of Indigenous Peoples — specifically, the right to self-determination and the right to development with culture and identity based on indigenous world views — has caused them to experience many critical socio-economic problems: lack of employment, lack of access to clean water, physical and social isolation, substandard housing, critical health issues, high teenage suicide rates, violence against women, alcohol and substance abuse, and high rates of crime and incarceration. For example, the arrest and incarceration rates among indigenous peoples are nearly four times higher than the national average. All these factors contribute to the social dislocation of indigenous peoples and their alienation from both their ancestral lands and North American society in general.

2. The Permanent Forum urges the Governments of Canada and the United States to work in good faith with indigenous peoples for the unqualified endorsement and full implementation of the United Nations Declaration on the Rights of Indigenous Peoples, and urges that such endorsement and implementation honour the spirit and intent of the Declaration, consistent with indigenous peoples' human rights.

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3. The Permanent Forum encourages United Nations agencies and other bodies to offer training programmes for Canadian and national parliamentarians and United States members of Congress, and staff within national institutions such as human rights commissions and other agencies, with the aim of integrating the spirit and intent of the Declaration into national policies.

4. The Permanent Forum encourages the Expert Mechanism on the Rights of Indigenous Peoples and the Human Rights Council to continue the process of addressing rights related to treaties and agreements between indigenous peoples and the United States and Canada, including through the consideration and implementation of the recommendations resulting from the first two United Nations treaty seminars, held in 2003 and 2006, and by taking steps to hold a third seminar, as mandated by the Economic and Social Council, and urges the Expert Mechanism to advance the work on treaties.

5. Given the fact that the issue of missing and murdered indigenous women, as well as other forms of violence, including trafficking and domestic violence, has gained increasing public attention in Canada, the Permanent Forum urges the Government of Canada to provide more emergency shelters serving indigenous women, as well as better victim services, and specific programmes to assist indigenous women who have been trafficked.

6. The Permanent Forum welcomes the decision of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to monitor violence against indigenous women and girls in Canada, including missing and murdered indigenous women and girls, in accordance with his mandate. Furthermore, the Permanent Forum requests that the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, as well as the Special Rapporteur on violence against women, its causes and consequences, address the situation of violence against indigenous women in the United States as well.

7. The Permanent Forum urges the Governments of Canada and the United States to respect the right of indigenous nations to determine their own membership, in accordance with article 33 of the United Nations Declaration on the Rights of Indigenous Peoples.

8. The Permanent Forum recommends that the Governments of Canada and the United States address the border issues related to the Mohawk Nation and the Haudenosaunee Confederacy by taking effective measures to implement article 36 of the United Nations Declaration on the Rights of Indigenous Peoples, which states that indigenous peoples divided by international borders have the right to maintain and develop contacts, relations and cooperation with their own members as well as other peoples across borders.

9. The Permanent Forum urges the Government of Canada to work with the Friendship Centre Movement and other relevant organizations to determine how it can strengthen its roles and responsibilities with regard to urban aboriginal peoples.

10. The Permanent Forum urges the Governments of Canada and the United States to eliminate all assimilation policies that further exacerbate the economic and other disparities between indigenous peoples and the rest of the population.

11. The Permanent Forum urges the Governments of Canada and the United States to financially support indigenous community education systems and their efforts to protect and perpetuate indigenous languages, on a par with their dominant languages.

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Chapter I
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B. Matters brought to the attention of the Economic and Social Council

Comprehensive dialogue with the secretariat of the Convention on Biological Diversity

1. The Permanent Forum on Indigenous Issues held an in-depth dialogue with the secretariat of the Convention on Biological Diversity on 23 April 2010. The Permanent Forum welcomed the participation of the secretariat and expressed its appreciation for its detailed and informative report on activities in support of indigenous peoples (E/C.19/2010/3).

Discussion

2. The Permanent Forum commends the secretariat of the Convention on Biological Diversity for the in-depth dialogue concerning its present work in advancing and highlighting the role of indigenous peoples in achieving the goals and mandates of the Convention. There are many areas of the work of the secretariat that have a strong focus for indigenous peoples, such as traditional knowledge through articles 8 (j) and 10 (c) and other important articles, access and benefit-sharing, climate change, sui generis and protected areas. The Permanent Forum notes that there are several initiatives that enable indigenous peoples to participate in the work of the Convention on Biological Diversity, including the voluntary fund, which facilitates indigenous peoples' attendance at relevant meetings under the Convention.

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3. The Permanent Forum notes that the meetings of the Ad Hoc Working Group on Article 8 (j) and Related Provisions of the Convention are open to all parties and include enhanced participation mechanisms for indigenous people, who are able to make interventions on all agenda items. The Ad Hoc Working Group on Access and Benefit-sharing has, in its most recent decisions, recognized the importance of the participation of indigenous peoples in the elaboration and negotiation of the international regime on access and benefit-sharing. The Forum congratulates the secretariat of the Convention on Biological Diversity for facilitating and collaborating with the Permanent Forum on a code of ethics to protect indigenous traditional knowledge, which is scheduled to be adopted in 2010 at the tenth Conference of the Parties to the Convention.

4. The Permanent Forum takes note of the 2008 Convention on Biological Diversity Gender Plan of Action, which was drafted with the full and effective participation of indigenous women, and notes that the secretariat of the Convention on Biological Diversity continues to cooperate with the secretariat of the Permanent Forum to ensure that the perspectives and strategies of indigenous women in biodiversity-related issues are taken into account in the work being done under the Convention with regard to indigenous traditional knowledge and that capacity-building efforts target indigenous women.

Recommendations

5. The Permanent Forum notes with concern the slow progress made in the negotiations on the final protocol on access and benefit-sharing. The Permanent Forum reiterates its requests to the parties to the Convention to take into account the United Nations Declaration on the Rights of Indigenous Peoples in the negotiation, adoption and implementation of the access and benefit-sharing protocol.

6. The Permanent Forum congratulates the secretariat of the Convention on Biological Diversity for considering the important role of indigenous peoples in its activities related to the International Year of Biodiversity in 2010 and recommends that it fund and organize a workshop on indigenous peoples and biological diversity as part of its celebration of the Year.

7. The Permanent Forum welcomes the initiative of the secretariat of the Convention on Biological Diversity and the United Nations Educational, Scientific and Cultural Organization to host the International Conference on Biological and Cultural Diversity: Diversity for Development (8-10 June 2010, Montreal, Canada) to develop a joint programme of work on biological and cultural diversity, and requests that future work include broad partnerships with the Permanent Forum, other relevant agencies, indigenous peoples' organizations and non-governmental organizations.

8. The Permanent Forum decides to send a member of the Forum to participate in the Conference to present the outcome of its ninth session on the question of development with culture and identity.

9. The Permanent Forum welcomes the capacity-building efforts being carried out by the secretariat of the Convention on Biological Diversity with the Indigenous Women's Biodiversity Network for the Latin American and Caribbean Region, thanks to the patronage of the Government of Spain, and encourages other donor

Governments to consider sponsoring similar efforts in other regions, in particular in Africa and in the Pacific region.

10. The Permanent Forum notes the general capacity-building efforts on access and benefit-sharing in the African region carried out under Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) of Germany and encourages further efforts to bolster indigenous participation in those workshops and also in developing workshops specifically for indigenous peoples and local communities.

11. The Permanent Forum calls upon the parties to the Convention on Biological Diversity to adopt the terminology "indigenous peoples and local communities" as an accurate reflection of the distinct identities developed by those entities since the adoption of the Convention almost 20 years ago.

12. The Permanent Forum reiterates to the parties to the Convention on Biological Diversity that, consistent with international human rights law, States have an obligation to recognize and protect the rights of indigenous peoples to control access to the genetic resources that originate in their lands and waters and any associated indigenous traditional knowledge. Such recognition must be a key element of the proposed international regime on access and benefit-sharing, consistent with the United Nations Declaration on the Rights of Indigenous Peoples.

13. The Permanent Forum invites United Nations bodies with expertise on human rights, cultural rights and the traditional knowledge of indigenous peoples to provide legal and technical comments on the revised draft protocol to the Convention on Biological Diversity on access to genetic resources and the fair and equitable sharing of benefits arising from their utilization for transmission to parties to the Convention for consideration in their final negotiations.

14. The Permanent Forum decides to appoint Michael Dodson and Victoria Tauli Corpuz, Members of the Permanent Forum, as Special Rapporteurs to organize and undertake a technical review of the proposed international regime on access and benefit-sharing, as recommended in paragraph 48 (i) of the report of the international expert group meeting (E/C.19/2007/8).

15. The Permanent Forum recommends that the Ad Hoc Working Group on Access and Benefit-sharing consider at its next meeting the report of the international indigenous and local community consultation on access and benefit-sharing and the development of an international regime (UNEP/CBD/WG-ABS/5/INF/9).

16. The Permanent Forum decides to appoint a member to participate in any future meetings of the Working Group on access and benefit-sharing and the tenth Conference of the Parties to the Convention.